

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME IV

FIRST REGULAR SESSION

Senate

May 19, 1993 to July 14, 1993

FIRST CONFIRMATION SESSION

October 14, 1993

The Bill **REFERRED** to the Committee on **LEGAL AFFAIRS**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

An Act Concerning the Mandatory Use of Car Safety Seat Belts

S.P. 155 L.D. 486
(C "A" S-88)

On motion by Senator **CAHILL** of Sagadahoc, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Begley.

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In the previous discussion in this body I have heard of three different instances where we should allow citizens the prerogative of choice. In each instance the comment was made that government should not be in the position of dictating. We have said at any number of times choice is the answer. One of the strongest bills that was considered and passed, rather strongly by this body, was the Privacy Act which simply said you definitely should allow people, in their private lives, to make choices. This reasoning, as far as I'm concerned, should also follow in this bill because we again are saying to adults, you do not necessarily have the ability of choice. We will tell you it is better for you that way. Other people have said to me, in discussing this issue, why are you afraid of this, don't you realize we have mandatory stop signs, street lights and other regulations? My answer is yes, certainly we realize that and each one of those is concerned with the prevention of accidents. In 99 44/100% of the cases seatbelts neither cause nor prevent accidents. They, once again, are undoubtedly preventive mechanisms to prevent injuries and, once again, a person should be able to decide, rightfully, as to the wearing of such things as this. The reasoning behind all of this comes down to, again, please government stay out of our private lives. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Brannigan.

Senator **BRANNIGAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. We've talked about lives saved, we've talked about the suffering that can be saved, we've talked about the money that can be saved by requiring people to buckle up. The data has been presented to us, the doctors say it's true, the EMT's say it is true, the hospital people say it is true. Right now we say, the State of Maine, and that's what I would like to speak about for a minute, the State of Maine says certain things about safety in automobiles, of the roads, and other areas. Right now the State of Maine says if you are

under 19 then you must, for safety sake, for goodness sake, wear your seatbelt. Right now the State of Maine says once you're 19 you do not have to wear your seatbelt. It is okay to not wear seatbelts if you are 19 or 25 or 60. You don't have to. And I think we have to make it very clear that we say you have to stop at the stop signs no matter how old you are, you have to have a drivers' license, you have to be in fit condition, you have to have your car in fit condition and inspected, but the State of Maine is saying, and we have a decision right now to make, when you get to be 19 unbuckled or not, what do we say for safety. Never mind lives. We're making a major decision and it is very close here this morning, major decision about what the State of Maine says. Is it okay to be unbuckled or not. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to pose a question through the Chair to the Senator from Cumberland, Senator Brannigan. I have been interested in this and somewhat on the fence about it and I heard the clipped, lilting accents of the good Senator from Aroostook, Senator Paradis one day, who said to me in a rather rapid voice, "Michael you've got to vote for this it's going to save us money, you wouldn't believe the testimony we heard in the Transportation Committee from the doctors that were there". Well my ears perked up and I ran down to the Finance Office and I said "Can we book it?" You know, for the budget, if these doctors said that it was difficult for them to reconstruct the faces and bodies of people who had been involved in accidents and that Medicare was paying for a lot of that I thought maybe we could save some money. They tell me that we can't book it, and I was disappointed in that. Senator Brannigan, from Cumberland, has sponsored a number of items along the line of interest in automobiles and one of them was mandatory insurance. At that time I was given the impression that insurance costs would go down if there was mandatory insurance and they didn't. I quizzed him about that and he said the increase didn't go up as fast. I would like to know what the ramifications for seatbelts, for insurance for individuals, are if we have a mandatory seatbelt law. Will insurance rates go down for Maine automobile drivers? Thank you.

THE PRESIDENT: The Senator from Penobscot, Senator Pearson has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Cumberland, Senator Brannigan.

Senator **BRANNIGAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Some insurance carriers already give discounts for safety factors, the use of seatbelts being one of them. We can't guarantee that they will do that. The answer, and it's as difficult as the answer I gave you before on another matter, insurance rates like a lot of other things are volatile, they're moving all the time, the same as gas prices. Other things move and we don't always know why they do, insurance rates on automobiles have been going up across the nation. Remember that forty four states have a seatbelt law yet it has to do with a lot of other factors other than just the savings. Will we save on individual costs of insurance premiums? I believe we will in the long run. Will we save money? We absolutely will even though we cannot book it, and you understand the vagaries of booking money, how

absolute it has to be in deciding that it will come in in this particular place or that particular place. The money that will be saved in this matter will be saved in insurance premiums, health premiums, it will be saved in Medicaid and other government assisted health areas, in the expenditures of vocation, rehabilitation and in just a wide range of areas in people's lives. Not losing wages, families not losing their wage earners. It's spread out in many, many ways.

So, unfortunately we can't congeal it and then book it but it will redound to the savings of this State and to the savings of people's lives and suffering. The State of Maine will be doing the right thing by saying you must be buckled up no matter what age you are. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I think you could ask a similar question, would society, this society, the State of Maine, save money if we required everyone to adhere to a low fat, low caloric, low cholesterol diet. The answer would be yes, we'd also save money if the State required everyone to do an hour of exercise every single day, we'd save money. But would we do that? The answer is no, not yet. I wear my seatbelt and the reason I wear my seatbelt is because a number of years ago when I had the privilege to serve in the other body of the legislature, Representative Nat Crowley, from Stockton Springs, had a little contest going. He asked every member of that body to wear their seatbelt for two weeks. We all agreed to do that and I've worn my seatbelt ever since. As a family we sat down one night and decided that as a family we would wear our seatbelts and we've worn our seatbelts ever since. I even have a little sports car that I drive for a couple of months in the summer time and when I'm in that sports car I even make my dog wear the seatbelt, because I don't want him falling out over the convertible top. Do I do that because it's a law in the State of Maine? I don't do that because it's a law, I do that because it's common sense. I don't do that because it makes good sense to make my family buckle up. I'm voting against this legislation though for one reason and that is for my father-in-law. My father-in-law is 80 years old, he turned 80 years old on the 31st day of March. To my knowledge he has never intentionally broken a law of the State of Maine in his life, not intentionally. He's a law abiding citizen, he takes his civic responsibility very seriously, but he's called me every day, every night for the last three weeks asking me the status of this legislation and he said you know, if this becomes law, for the first time in my life I am going to have to break the law because I won't wear my seatbelt, I feel confined and I feel that I am not an alert driver if I wear that. We're making people scoff laws if this becomes law and I believe my father-in-law represents a good majority of citizens in the State of Maine. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Kieffer.

Senator **KIEFFER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I've been in the automobile insurance business for some 35 years. I've seen a lot of bad injuries over that period of time. I won't get in a car today without wearing a seatbelt and I won't get into an airplane without wearing a seatbelt. Everyone who works for us is

told to wear his seatbelt and yet I will be voting against this bill. I just cannot understand the question regarding automobile insurance rates. If the rates go up it isn't because people aren't wearing seatbelts, it's because of the judicial system that exists today in the State of Maine. People that were injured in 1960 were injured just as bad as they are injured today. The difference between the award because of their injury is due to the judicial system and no other single factor. There may be some increased medical costs I'll grant you, but the judicial system can wear the rose for the higher insurance costs as far as the bodily injury part of insurance rates is concerned. I urge you to vote against this bill. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Carpenter.

Senator **CARPENTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. There's a couple of things that bother me about this bill. One was a statement made by the good Senator from Cumberland, Senator Brannigan, about this bill saying when you're 19 you may take your seatbelts off. It did not pass. I have seen absolutely no evidence of that. I think the younger generation that has been brought up with the seatbelts has never hesitated to continue to wear them and I have a feeling that statistics would probably show me to be more correct than the good Senator from Cumberland, Senator Brannigan on that. It's an education that you get in the habit of wearing them, which I have, I would like to say I'm over 19. When I was 19 there were no seatbelts, and no automobiles.

The other thing that bothers me somewhat about the bill is you call it a mandatory seatbelt bill. Mandatory means you have to wear it, you must wear it, and yet the bill still doesn't have any real law enforcement in it. You cannot be pulled over or arrested for not wearing your seatbelt. You have to violate a traffic law, speeding, stop sign violations, and I still contend that once you violate that law and you know you're being pulled over that there is no way to enforce it. Whether you put your seatbelt on after you've been spotted by the police for violating the law. I could be wrong but it seems to me there is nothing in the law that says you could be arrested for not wearing a seatbelt and the police saying they saw you putting it on. Anyway, I will be voting against this Bill. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to start off by telling you that I agree with seatbelts and wear mine 90% of the time. The last time this came up for a vote I voted in favor. I came down here and I told the constituents in my district that I would vote the way they wanted me to vote. I would go with what the majority wanted. I sent a questionnaire out and I wish as this very moment that I had included this question on that questionnaire. I did not. I have asked several groups that I have been to, depending on the type of group, of whether they are for or against. The best I can calculate it's about 52% to 48%, my problem is I'm not sure which side is the 52%. As I said, I voted for this last time, and then I received a lot of phone calls over the last week to ten days. Every phone call I have received has been against this law. I got thinking about it. One other thing that I campaigned on was we had too much government regulation in our lives, in many facets of

it. I've given that a lot of thought. So I will be changing my vote here today and it will be for that reason. I do believe in the seatbelt law, there is definitely, I'm convinced, more injury. I'm glad that we do have a law for the 19 and under. I have a very large family myself, and probably my parents are the worst offender of this and they're almost 80. They have never worn seatbelts and they probably never will. If we give this some due time, mother nature will take its course and we will have 90% of all residents in Maine wearing a seatbelt for the action that has already been taken in this body. So I urge you to vote your conscience as I will mine. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator O'Dea.

Senator **O'DEA:** Thank you Mr. President, Ladies and Gentlemen of the Senate. When I cast my vote today against this measure I will be doing that not because of insurance rates, and not because I don't think seatbelts are a good idea because truly I do, but because I don't think it's something that our State government should be regulating. Before I begin I have to say, as many others have said, I'm an avid seatbelt wearer. I think I may be the only member of this body who's found himself not once, but twice, hanging upside down by their seatbelts in a car on the side of the road, as a passenger both times. Here I am in fine shape. I think back to the State that had the first seatbelt law in the country, Massachusetts, around 1980. It was a wonderful, innovative piece of legislation. Everyone thought it was great, except for the people who were finding themselves cited by law enforcement officers for not obeying the law. In 1986 the citizens of Massachusetts initiated a petition drive, and repealed through citizen initiative, the seatbelt law. This year the people on Beacon Hill haven't quite gotten the message yet and are trying to pass another seatbelt law, again, after the people repealed it. The question here is whether or not we should be regulating every facet of people's lives, and while folks talk about the cost in human suffering, the pain and insurance and everything else, those are part of the costs of doing business in a free society, so called. If people can't exercise good judgement then they suffer the penalties. A few weeks ago, as Senator Begley said, we had a very heated debate on another choice matter. Some of my good friends, with their "keep your laws off of my body" bumper stickers are on the other side of this issue. I guess what they're saying is they're pro-choice on abortion but not pro-choice on seatbelts, and I'm still trying to reconcile that a little bit. I think back to my schooling and reading Thomas Jefferson and the precepts that this country was founded on and the notion, basically, that your right to swing a punch stops at the end of my nose. You can do whatever you want to do right up to the point where it has an adverse impact on me and my ability to do what I want to do. I'm sitting here wondering today if we're going to be enacting another law and trying to replace good common sense and good judgement with some statute. We've done it time and again and we're trying to do it with seatbelts and helmets and everything else. The question isn't whether these safety measures are a good idea, but whether we, in Augusta, have been sent by our people to make decisions that the folks back home can and should

make for themselves every time they get in their car. I would ask you to please join me in voting against this measure. Thank you.

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Paradis.

Senator **PARADIS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I was told to speak a little slower so I'm going to make an effort. Being on both the Transportation Committee and the Human Resources Committee has been an interested experience and one of the times that it did come together and blend was on the seatbelt issue. Time and time again we've been dealing with the health care issues in this State in my Committee and the cost of it. Right now my freedom to do what I want is a very compelling argument but my response to that is that we are mandating our taxpayers to pay tremendous costs for the cost of unbelted individuals that end up on the public rolls. We have the best fiscal program review office in the country, as you know, whenever you try to get a bill through they stick this fiscal note on it and you could go down their and beg and argue or whatever and they would stick to their guns. Even they have thrown up their hands on the cost of this because immediately the person ends up, many times, on the AFDC, the food stamps, the whole nine yards. If you're a child you can end up having to have special education. The technicals of the cost of the unbelted's care to the taxpayers is this incredible tentacle that reaches into every facet, and even they could not put a note on it.

The difference between our overuse of alcohol or food is that it does do incredibly bad things to your body over a period of time, an accident is sudden. It's quick, it's right away and the damage is long term. I have 80 year old parents and I would be very upset with them if they did not get belted in because they are healthy, fairly healthy, we're doing so much work to keep them going to live a longer life because we want them with us. They have no problems with this at all. We are being mandated to pay incredible amounts of money, that is my basic issue. We spent the day yesterday looking for nickles and dimes where we were told we had limited resources, we had to do these horrible invasive procedures to people that we were giving public dollars to. I don't see the difference between having these people be accountable for the dimes we give them and not having people who are ending up in a hospital with the taxpayers paying the bill not having any accountability at all. I would urge your favorable support on this and I would go back to my work of hurting the elderly, the people of mental health and mental retardation, the children, a lot more easily if I at least had a consistent message that we are sending out, that we are looking at the bottom line and we're trying to save money. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Begley.

Senator **BEGLEY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. The two comments that I would like to refer to, one dealing with the age and the other with cost. The age issue on seatbelts is adult. The cost, supposedly, is adult or across the board. The issue that we passed several weeks ago took away the age of minors and simply said that in the privacy act even down including minors, they were to be given the right of choice. Choice, and whatever way that choice went for that woman or young lady, if you don't think that that cost something, good and bad, then you certainly haven't been following the medical expenses and the educational expenses. We were saying at that time, and we said quite honestly, please give us the choice in our private lives. Do it again today and vote against this. Thank you.

THE PRESIDENT: The pending question before the Senate is **ENACTMENT**.

A vote of Yes will be in favor of **ENACTMENT**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators AMERO, BALDACCI, BERUBE, BRANNIGAN, BUSTIN, CAREY, CLEVELAND, CONLEY, ESTY, GOULD, HANDY, HARRIMAN, LAWRENCE, MCCORMICK, PARADIS, PEARSON, PINGREE, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE

NAYS: Senators BEGLEY, BUTLAND, CAHILL, CARPENTER, CIANCHETTE, FOSTER, HALL, HANLEY, KIEFFER, LUDWIG, LUTHER, MARDEN, O'DEA, SUMMERS, TITCOMB, WEBSTER

ABSENT: Senators None

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, with No Senators being absent, the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Out of order and under suspension of the Rules, the Senate considered the following:

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **BERUBE** for the Committee on **STATE & LOCAL GOVERNMENT** on Resolve, to Clear Title to Land Owned by James Mercier in Unity, Maine

S.P. 433 L.D. 1343

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-174)**.

Which Report was **READ** and **ACCEPTED**.

The Resolve **READ ONCE**.

Committee Amendment "A" (S-174) **READ** and **ADOPTED**.

The Resolve as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

Senator **VOSE** for the Committee on **UTILITIES** on Bill "An Act to Require that All Interest on Escrowed Assessments on Utilities Be Used for the Benefit of the Public Utilities Commission and the Office of the Public Advocate"

S.P. 417 L.D. 1326

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-173)**.

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-173) **READ** and **ADOPTED**.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Today Assigned matter:

HOUSE REPORT - from the Committee on **BANKING & INSURANCE** on Bill "An Act to Amend the Mutual Holding Company Laws"

H.P. 477 L.D. 614

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-305)**

Tabled - May 19, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Report, in concurrence

(In Senate, May 19, 1993, Report **READ**.)

(In House, May 18, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-305)**.)